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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,669	11/05/2003	Takuji Matsubara	12916/3	6433
23838	7590	05/04/2005	EXAMINER	
KENYON & KENYON 1500 K STREET, N.W., SUITE 700 WASHINGTON, DC 20005			MCCALL, ERIC SCOTT	
			ART UNIT	PAPER NUMBER
			2855	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/700,669	<b>Applicant(s)</b> MATSUBARA ET AL.	
	<b>Examiner</b> Eric S. McCall	<b>Art Unit</b> 2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>Nov. 05, 2003</u> . | 6) <input type="checkbox"/> Other: _____  |

**EVAPORATED FUEL TREATMENT DEVICE OF**  
**INTERNAL COMBUSTION ENGINE**

**FIRST OFFICE ACTION ON THE MERITS**

In response to the Applicant's election dated Feb. 14, 2005.

**ELECTION**

The Applicant's election without traverse of claims 1-7 in the reply filed on Feb. 14, 2005 is acknowledged.

Claim 8 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention.

**CLAIMS**

**35 U.S.C. § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Kidokoro (5,816,222).

With respect to claim 1, Kidokoro suggests an evaporated fuel treatment device for internal combustion engine that uses a canister to absorb evaporated fuel generated in a fuel tank for evaporated fuel treatment purposes, said device comprising:

a sealing valve (16) for controlling the continuity between said fuel tank and said canister (col. 5, lines 54-56);

a differential pressure detection means for detecting the difference between a canister side pressure which exists in a canister side area of the sealing valve and a tank internal pressure (col. 12, lines 48-51); and

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an open failure normality judgment means for judging that no open failure exists in said sealing valve when said differential pressure detection means detects a differential pressure higher than a judgment value (see col. 2, lines 29+; col. 3, lines 60-66; and col. 4, lines 23-31).

With respect to claim 2, Kidokoro suggests an evaporated fuel treatment device for an internal combustion engine that uses a canister to absorb evaporated fuel generated in a fuel tank for evaporated fuel treatment purposes, said device comprising:

a sealing valve (16) for controlling the continuity between said fuel tank and said canister (col. 5, lines 54-56);

a differential pressure generation condition judgment means for judging whether a differential pressure generation condition is established, said condition being established when the sealing valve is expected to be closed and differential pressure is expected to be generated between both sides of the sealing valve (col. 12, lines 48+);

a condition establishment differential pressure detection means for detecting the difference between a canister side pressure and a tank internal pressure when said differential pressure generation condition is established (col. 12, lines 48+); and

an open failure abnormality judgment means for judging that an open failure exists in said sealing valve when said condition establishment differential pressure detection means does not detect a differential pressure greater than a judgment value (see col. 2, lines 29+; col. 3, lines 60-66; and col. 4, lines 23-31).

With respect to claim 3, Kidokoro suggests a differential pressure generation condition judgment means which makes a judgment that said differential pressure generation condition is established when a predetermined period of time elapses after said sealing valve closes and the internal combustion engine comes to a stop, said predetermined period of time being set as one necessary for generating significant change in said tank internal pressure (col. 13, lines 23-33).

With respect to claim 4, Kidokoro suggests a differential pressure generation condition judgment means which makes a judgment that said differential pressure generation condition is established when a predetermined ambient temperature change occurs after said sealing valve closes and the internal combustion engine comes to a stop, said predetermined ambient temperature change being set as one necessary for generating significant change in said tank internal pressure (col. 7, lines 28-35).

*Allowable Subject Matter*

Claims 5-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 5 and 7 have been found to contain allowable subject matter because the prior art fails to teach or suggest the claimed subject matter thereof with respect to the fuel temperature as claimed.

Claim 6 has been found to contain allowable subject matter because the prior art fails to teach or suggest the claimed subject matter thereof with respect to the change in atmospheric pressure as claimed.

**CITED DOCUMENTS**


The Applicant's attention is directed to the enclosed "PTO-892" form for the prior art made of record at the time of this action.

**CONTACT INFORMATION**

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric S. McCall whose telephone number is (571) 272-2183.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
ERIC S. McCALL  
PRIMARY EXAMINER

4/29/2005